

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

 **COPY**

DAVID DAVIS,

Plaintiff,

vs.

CASE NO. 3:06-CV-0054-VPM

CITY OF PHENIX CITY, ALABAMA,

et al.,

Defendants.

\* \* \* \* \*

DEPOSITION OF BRANDON SHEETS, taken pursuant to stipulation and agreement before Shannon M. Williams, Certified Court Reporter and Commissioner for the State of Alabama at Large, in the offices of City Hall, 601 12th Street, Phenix City, Alabama, on Wednesday, November 7, 2007, commencing at approximately 12:16 p.m. EST.

\* \* \* \* \*

**EXHIBIT**

**2**

APPEARANCES

FOR THE PLAINTIFF:

THOMAS A. WOODLEY  
Woodley & McGillivary  
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Washington, D.C. 20005

FOR THE DEFENDANTS:

JAMES P. GRAHAM, JR.  
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Phenix City, Alabama 36868-3380

JAMES R. MCKOON, JR.  
McKoon & Associates  
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Phenix City, Alabama 36868-3220

ALSO PRESENT:

Cole Dugan  
Wallace Hunter  
H.H. Roberts

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## 1 STIPULATIONS

2 It is hereby stipulated and agreed by and  
3 between counsel representing the parties that the  
4 deposition of BRANDON SHEETS is taken pursuant to  
5 the Federal Rules of Civil Procedure and that said  
6 deposition may be taken before Shannon M. Williams,  
7 Certified Court Reporter and Commissioner for the  
8 State of Alabama at Large, without the formality of  
9 a commission; that objections to questions other  
10 than objections as to the form of the questions need  
11 not be made at this time but may be reserved for a  
12 ruling at such time as the deposition may be offered  
13 in evidence or used for any other purpose as  
14 provided for by the Federal Rules of Civil  
15 Procedure.

16 It is further stipulated and agreed by and  
17 between counsel representing the parties in this  
18 case that said deposition may be introduced at the  
19 trial of this case or used in any manner by either  
20 party hereto provided for by the Federal Rules of  
21 Civil Procedure.

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BRANDON SHEETS

The witness, having first been duly sworn or affirmed to speak the truth, the whole truth and nothing but the truth, testified as follows:

EXAMINATION

BY MR. WOODLEY:

Q. Mr. Sheets, could you state your full name for the Record?

A. Brandon Lynn Sheets.

Q. My name is Tom Woodley. I'm one of the attorneys representing David Davis in this lawsuit that he has filed against the City of Phenix City and against Chief Hunter and City Manager Roberts. Have you ever had your deposition taken before in another case?

A. No, sir.

Q. Okay. Have you had a chance to spend some time with perhaps Mr. McKoon or Mr. Graham about the nature of this lawsuit and the procedures we'll be following today?

A. Other than the deposition last time? Is that what you're talking about?

Q. What deposition last time?

A. Last week?

MR. MCKOON: He's not had a deposition.



1           When you listed him, he came up here and we  
2           asked him what he knew. That was that.

3           MR. WOODLEY: Okay. Good enough.

4           Q. Basically, the procedure is I'll be asking  
5           you the questions. We expect you to give answers to  
6           the best of your ability. And this court reporter  
7           will take down everything we say today and she will  
8           put it in a written transcript form. Do you  
9           understand that?

10          A. Yes, sir.

11          Q. And if at any time you don't understand or  
12          hear one of my questions, stop me immediately and  
13          I'll be glad to repeat or rephrase that question.  
14          Do you understand that?

15          A. Yes, sir.

16          Q. You'll have to wait until I finish asking  
17          my question before you begin your answer so we have  
18          a clear record. Do you understand that?

19          A. All right. Yes, sir.

20          Q. Are you currently a union member or member  
21          of the Phenix Firefighters' Association?

22          A. Yes, sir.

23          MR. MCKOON: Tom, let me just interrupt a  
24          second. Jimmy reminded me of something. In  
25          the event that he's unavailable for trial, I

1 think we shouldn't use the usual stipulations.  
2 You know, if there's an objection, it should be  
3 like a court objection, for the purpose of this  
4 deposition.

5 MR. WOODLEY: I agree. I think that's a  
6 good statement on the record, Jim.

7 Q. We do want to preserve his testimony  
8 because I understand you're going to be going  
9 overseas in the next few days; is that correct?

10 A. Yes, sir.

11 Q. Leaving tomorrow?

12 A. Leaving Monday.

13 Q. Going to Iraq?

14 A. I'll be flying to Houston for a week and  
15 then from Houston, we will fly to Dubai and have  
16 about five days after --

17 Q. Does that mean you're leaving your job here  
18 in the department?

19 A. Yes, sir.

20 Q. Okay. Do you expect you might come back  
21 later on and work for the Phenix City Fire  
22 Department?

23 A. Yes, sir. I'm going to try.

24 Q. Well, good luck over there and be safe.

25 A. Thank you.

1 Q. So I think you indicated you're currently a  
2 union member; is that right?

3 A. Yes, sir.

4 Q. And a number of firefighters employed with  
5 the city are union members as well, correct?

6 A. Yes, sir.

7 Q. David Davis, as I understand it, was a  
8 local union officer, correct?

9 A. Yes, sir.

10 Q. Have you worked with David Davis when he  
11 was working his shifts in the department?

12 A. Yes, sir. I was on shift with him.

13 Q. Were you in the same station?

14 A. Yes, sir.

15 Q. For a period of years or --

16 A. Altogether, probably between six months and  
17 a year, something like that.

18 Q. And is it your understanding that David was  
19 an eight-year veteran of the Phenix City Fire  
20 Department?

21 A. Yes, sir.

22 Q. And that about a year and a half ago he got  
23 fired. Do you understand that?

24 A. Yes, sir.

25 Q. Do you know why he was fired?

1           A. Chain of command. Disobeying the chain of  
2 command, I think, is what I understand.

3           Q. Did you hear that he perhaps was fired  
4 because he contacted Mayor Hardin about a proposed  
5 ordinance and he was terminated?

6           A. Yes, sir.

7           Q. Let me invite your attention back to the  
8 spring of 2006, specifically in April 2006, which  
9 was the month that Mr. Davis was terminated. As I  
10 understand it, there was a proposed ordinance that  
11 was coming before the city council at that time that  
12 essentially expanded the probationary period from 12  
13 months to 18 months for new hires in the fire and  
14 police departments and code enforcement officers.  
15 Does that ring a bell with you?

16          A. Yes, sir.

17          Q. How did that come to your attention back in  
18 the spring of 2006?

19          A. It was first -- it was brought about in a  
20 class when they -- it was kind of mentioned but  
21 didn't say that it was going to happen. We were in  
22 class. And Chief Waters was teaching the class.  
23 And I said something about probation. He's like,  
24 just be glad. He said, most departments do 18  
25 months probation. And he's like, don't be surprised



1 if it didn't happen here.

2 And then we were all sitting at the table  
3 eating lunch one day, and we read it in the paper  
4 that it was going to happen. And David said --

5 Q. This is on duty at the station?

6 A. Yes, sir. Said, you know, we need to call  
7 the mayor or call the city representatives or  
8 whatever and tell them --

9 Q. City council members?

10 A. Say that we didn't like it 'cause, you  
11 know, we thought that, you know, people that just  
12 got hired couldn't get a job for 18 months, you  
13 know, and we were trying -- thinking we can get  
14 better people. But we're sitting at the table and  
15 read it in the newspaper. We were all sitting there  
16 saying we didn't like it and we wanted it changed.  
17 And then he was like, we should call. And he was  
18 like, no, we can't -- Captain Bennett was like, no,  
19 we can't just call.

20 Q. I'm sorry. You have to slow down. Captain  
21 who?

22 A. Bennett. And then he was like, well, I can  
23 call on behalf of the union as a representative.

24 Q. Who said this?

25 A. David Davis. And then it was -- he was



1 like -- Captain Bennett was like, I would call if I  
2 was you, but -- but he wouldn't call.

3 Q. Okay. Let me see if I understand you.  
4 This was on duty at the station?

5 A. Yes, sir.

6 Q. And you were there and Mr. Davis was there  
7 and Captain Bennett was there?

8 A. Yes, sir.

9 Q. If I understood you correctly, Captain  
10 Bennett said that someone should call the mayor and  
11 city council members about the proposed ordinance  
12 that enlarged the probationary period?

13 MR. MCKOON: Object. I'm not sure that's  
14 what he said.

15 Q. Well, put it in your own words.

16 A. Well, David said that someone should call.

17 Q. Call who?

18 A. The city council members and say, you know,  
19 that -- someone should call. Then Captain Bennett  
20 was like, we can't just call, you know; we can't do  
21 that; it might, you know, make someone mad or  
22 something like that.

23 And David was like, you know, I can call on  
24 behalf of the union, you know. It's the union.

25 And Captain Bennett was like, I would call if I

1 was you.

2 Q. Captain Bennett said to Davis, I would call  
3 if I were you?

4 A. Something of that nature. I mean, not  
5 those exact words.

6 Q. And did Captain Bennett mean at the time  
7 when he talked to Davis that David should call as  
8 the union representative and communicate with the  
9 city council members about this proposed ordinance?

10 MR. MCKOON: Object to the leading, and  
11 calls for a mental operation on the part of  
12 Captain Bennett. He couldn't know what Captain  
13 Bennett could have thought.

14 Q. Okay. I'm not asking what Captain Bennett  
15 thought. Just put it in your own words again. What  
16 did Captain Bennett say to Davis about possibly  
17 contacting the city council?

18 A. He was just like, you know, I would call if  
19 I was you.

20 Q. Okay.

21 A. Something -- something about that. He  
22 wasn't going to call, but he would call if it was  
23 him -- if he was in that situation, I presume.

24 Q. Did you understand that comment from  
25 Captain Bennett as giving permission or

1 authorization for Davis to call?

2 A. Not really sure. It was like we were all  
3 sitting around talking about it. It was just like a  
4 random, I would call if I was you. Like -- I don't  
5 know if it was permission or just, you know, if I  
6 was in that situation.

7 Q. And do you know if Davis, in fact, followed  
8 up and actually called the mayor and/or city council  
9 members about the proposed ordinance?

10 A. That's what I heard. I mean, I wasn't with  
11 him when he called, but --

12 Q. That's what you heard later?

13 A. That he called?

14 Q. Yes. Did you ever speak to any council  
15 members about that proposed ordinance?

16 A. No, sir.

17 Q. Were you also against the proposed  
18 ordinance that expanded the probationary period for  
19 new hires?

20 A. Yes, sir.

21 Q. And why were you and the other firefighters  
22 against that proposed ordinance?

23 MR. MCKOON: Object. Object to other  
24 firefighters. We don't -- I mean, how can he  
25 know what other firefighters were for or

1           against?

2           Q.   Were other firefighters and union members  
3           against the proposed ordinance?

4           A.   Yes, sir.

5           Q.   Do you know why?

6           A.   Because we were thinking, you know, it's  
7           hard enough getting good people now. You know, if  
8           people can't get a second job, you know, because we  
9           get paid, you know, a pretty good bit -- you know,  
10          especially compared to other departments. But a lot  
11          of firefighters depend on a second source of income,  
12          you know, to pay the bills. And, you know, if you  
13          can't get a second job for 18 months, we figured it  
14          would be hard enough to get people up here because  
15          of that, if you had to wait 18 months instead of  
16          just 12.

17          Q.   So in your judgment, it would be more  
18          difficult to get qualified people to hire on to the  
19          department if the probationary period was longer?

20          A.   I wouldn't say qualified. I mean, just --  
21          I guess -- I mean regular people -- I mean good  
22          people, I guess. I don't know.

23          Q.   Before today, were you ever asked any  
24          questions by city officials or city attorneys about  
25          this conversation that you just described --



1 A. Yes.

2 Q. -- involving Captain Bennett and Mr. Davis?

3 A. Yes.

4 Q. Who asked you about that conversation?

5 A. These two gentlemen here.

6 Q. You're pointing at Mr. McKoon and  
7 Mr. Graham?

8 A. Yes, sir.

9 Q. And when did you have that conversation  
10 with the city attorneys?

11 A. Thursday of last week. Thursday?

12 Q. Can you recall anything else that was said  
13 in the conversation involving Captain Bennett,  
14 Mr. Davis, and yourself?

15 A. Not that I can think of. Just about, you  
16 know, if we didn't like it that, you know, it would  
17 be hard enough to get people here and having 18  
18 months -- other than that, no, sir.

19 Q. Do you know if Captain Bennett was in favor  
20 of the enlarged probationary period or whether he  
21 was against it?

22 A. I think he was against it, because we were  
23 all talking about we didn't like it.

24 Q. Is Captain Bennett a member of the union as  
25 well?



1 A. No, sir.

2 Q. Has he ever been; do you know?

3 A. I don't know -- I couldn't tell you.

4 Q. There was a newspaper article that came  
5 out. In fact, you can take a look at it. It's open  
6 in the binder in front of you. It's Exhibit 14.  
7 This was a newspaper article from the  
8 Ledger-Enquirer that was published on September 18,  
9 2005, in which Mr. Davis and a number of other  
10 firefighter and union members commented on various  
11 issues affecting the fire department. Were you  
12 involved in that interview with the newspaper  
13 reporter, if you recall?

14 A. I don't believe I was.

15 Q. You don't believe you were?

16 A. I -- not that I can remember.

17 Q. Okay. Fair enough. Do you know if, as a  
18 result of this newspaper article, there was any  
19 disruptions in the fire department performing the  
20 duties and responsibilities of the fire department?

21 A. And this is when?

22 Q. September 2005.

23 A. I couldn't tell you.

24 Q. Did you notice any disruptions in  
25 operations or efficiency in the fire department

1 because this article came out?

2 A. I was just getting online. I mean, well --  
3 yes, I was just getting online then. I couldn't  
4 tell you.

5 Q. Based upon your working relationship with  
6 Mr. Davis, do you have a view as to whether or not  
7 he was a good performer as a firefighter or a bad  
8 performer?

9 A. He did his job. He was very intelligent,  
10 knew his job well.

11 Q. Do you know if he has expertise in  
12 emergency medical services as well?

13 A. He was one of our few paramedics that we  
14 had. Like we don't recognize paramedic in Phenix  
15 City but, you know, he was one of our few  
16 paramedics.

17 MR. WOODLEY: I don't think I have any  
18 further questions. I thank you for coming  
19 today.

20 EXAMINATION

21 BY MR. MCKOON:

22 Q. Mr. Sheets, since this is going to be our  
23 only opportunity to ask you questions, I need to ask  
24 you some under oath here today.

25 When you met with Mr. Graham and I, did anybody

1 ever ask you to say anything but the truth?

2 A. No, sir.

3 Q. All right. In fact, we emphasized to you  
4 that we wanted you to tell the truth as you knew it;  
5 is that correct?

6 A. Yes, sir.

7 Q. All right. And this is -- is today your  
8 last official day of work?

9 A. Yes, sir.

10 Q. You're not here today under any subpoena?  
11 Nobody gave you a subpoena to come here today, did  
12 they?

13 A. No, sir.

14 Q. And the sole reason you are here today is  
15 because Mr. Woodley asked you to come and we asked  
16 you, from your fire department position, to come up  
17 here and give your testimony; is that correct?

18 A. Today, yes, sir.

19 Q. All right. Do you have or have you had, in  
20 the last six months, a cell phone?

21 A. Yes, sir.

22 Q. What is your cell phone number?

23 A. (706) 527-5093.

24 Q. And who is your cell phone service with?

25 A. Nextel.

1 Q. Okay. Is that out of Columbus?

2 A. Yes, sir.

3 Q. How do you know David Davis?

4 A. Fire department previously.

5 Q. Do you also see him at the gym?

6 A. Yes, sir.

7 Q. Y'all work out together sometimes?

8 A. Well, I see him at the gym. We don't have  
9 a workout -- like if I need a spot, he might come  
10 spot me, but we don't do the same workout program.

11 Q. How old are you?

12 A. 24.

13 Q. And it's mentioned that you're leaving to  
14 go to Iraq. You're not in the military, are you?

15 A. No, sir.

16 Q. Who are you -- why is it that you're going  
17 to Iraq?

18 A. The money, help on the situation; you know,  
19 pay bills, get ahead.

20 Q. All right. And who are you going to work  
21 for in Iraq?

22 A. Wackenhut.

23 Q. And what is Wackenhut?

24 A. It's a government contract, subcontract.

25 Q. You said you were going over there for

1 money?

2 A. Yes, sir.

3 Q. What type of money are they going to pay  
4 you in Iraq?

5 A. Hundred grand.

6 Q. A hundred grand?

7 A. Yes, sir.

8 Q. How long -- are you signing a contract to  
9 be a contract firefighter over there?

10 A. Yes, sir.

11 Q. How long will you be over there?

12 A. One year.

13 Q. And as I understand it, what you told us  
14 the other day, some of that money is tax-free money;  
15 is that correct?

16 A. Yes, sir.

17 Q. How much of it is tax free?

18 A. 84.

19 MR. WOODLEY: I'm going to object on  
20 relevance grounds. I'm not sure where we're  
21 going.

22 MR. MCKOON: That's fine. You've got your  
23 objection. Go ahead.

24 A. 84,000.

25 Q. Okay.



1 A. 84 -- 84 -- 85,000, something like that.

2 Q. So the reason you're leaving the fire  
3 service here is you're doing that voluntarily  
4 because you want to go and make more money overseas;  
5 is that right?

6 A. Yes, sir.

7 Q. All right. Now, when did you become  
8 employed with the Phenix City Fire Department?

9 A. June of '05.

10 Q. And at some point in time, did you join the  
11 union?

12 A. Yes, sir.

13 Q. When did you join the union?

14 A. Approximately a year after I got on.

15 Q. Sometime in '06?

16 A. Yes, sir.

17 Q. All right. Were you a union member when  
18 this newspaper article that Mr. Woodley referred to  
19 earlier and showed you, were you a union member at  
20 the time that newspaper article came out in  
21 September of '05?

22 A. No, sir.

23 Q. All right. Were you a union member at the  
24 time that you say you were sitting at a table and  
25 read about this ordinance, about the changing from a

1 12-month probationary period to the 18-month  
2 probationary period?

3 A. Yes, sir.

4 Q. Okay. How many union meetings had you  
5 attended during the course of your union membership  
6 from the time you joined up until that day?

7 A. Three to five, somewhere around there.

8 Q. How many?

9 A. Three to five.

10 Q. Three to five? Who would preside over the  
11 meetings?

12 A. Who all was there?

13 Q. Who would be the person that was heading  
14 the meetings, the person that was presiding, the  
15 head person?

16 A. David would usually do it. Or if he  
17 couldn't be there, it would be another union  
18 representative. Just no one in particular.

19 Q. Did you ever have a meeting that David did  
20 not attend?

21 A. Yes, sir.

22 Q. All right. Do you know if anybody kept  
23 minutes or notes at the meetings?

24 A. Not sure.

25 Q. You just -- you never saw that happen?

1 A. I didn't -- no, sir.

2 Q. Did you ever attend a meeting where  
3 somebody stood up and said now we're going to read  
4 the minutes from the last meeting and vote on the  
5 approval of those minutes?

6 A. No, sir.

7 Q. Okay. So you don't know whether anybody  
8 took minutes or not?

9 A. No, sir.

10 Q. Now, going back to either the late part of  
11 2005 or the early part of 2006 -- I would say  
12 December of '05 or January of '06, sometime in that  
13 time frame -- do you recall where there was a called  
14 meeting of people on your shift where Chief Hunter  
15 and Chief Waters came around and explained that  
16 there may be a change in the probationary period  
17 from 12 months to 18 months?

18 A. I'm thinking maybe.

19 Q. Do you recall that happening?

20 A. I was trying to think. I think it did  
21 happen.

22 Q. Okay. Do you remember getting up and  
23 asking a question at that meeting, since you would  
24 have been one of the people that was kind of a new  
25 hire and in your probationary period at the time?